

Application No.: 10/688,371
Amendment dated: October 13, 2005
Reply to Office Action dated: June 13, 2005

AMENDMENTS TO THE DRAWINGS

To comply with the Examiner's objection of the drawings, seven (7) pages of
Replacement drawings are attached and replace any previous drawings submitted.

Attachment: Replacement Sheets

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Atty. Docket No. 13303/4
PATENT APPLICATION

REMARKS/ARGUMENTS

Claims 33, 36-41, 85, 88-93, 97-101, 106-109, 117, 123-125, and 131-132 are pending in the application. Claims 34-35, 86-87, 94-96, 102-105, 110-116, 118-122, and 126-130 have been cancelled. Claim 133 has been added.

Replacement drawings are being submitted to comply with the Examiner's objections.

Claims 34, 86, 94, 102, 110, 118, and 126 are rejected under 35 U.S.C. §101 as claiming the same invention as that of claims 2-8 respectively of prior U.S. Patent No. 6,690,761. Claims 33-41 and 85-132 are rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-8 of U.S. Patent No. 6,690,761. Claim 109 has been rejected under 35 U.S.C. §102(e) as being anticipated by USP 6,215,846 (Mazess). While the body of the Office Action references USP 6,125,846 to Bathe et al., as the Notice of References Cited references Mazess, applicants are responding as if Mazess was the intended reference, as the specific citations appear to fit Mazess, not Bathe.

Rejections Under 35 U.S.C. §101

Claims 34, 86, 94, 102, 110, 118, and 126 are rejected under 35 U.S.C. §101 as claiming the same invention as that of claims 2-8 respectively of prior U.S. Patent No. 6,690,761. Claims 34, 86, 94, 102, 110, 118, and 126 have been cancelled, along with other claims that applicants have identified as potentially being subject to this rejection.

Rejections Under Non-Statutory Double Patenting

Claims 33-41 and 85-132 are rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-8 of U.S. Patent No. 6,690,761. A

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terminal disclaimer has been filed concurrently with this office action response.

Rejections Under 35 U.S.C. §102

Claim 109 has been rejected under 35 U.S.C. §102(e) as being anticipated by Mazess.

Mazess discloses an accessory for fluoroscopy equipment provided to support the x-ray tube and detector on a pedestal with respect to a patient limb for quantitative bone densitometry measurement (*See Abstract*).

Applicants respectfully submit that Mazess fails to teach or suggest analyzing an x-ray image using frequency spectral analysis, as claimed in claim 109. The relevant section of Mazess cited by the Office Action states:

Otherwise, if there are no pixels with the maximum value of 225, the present invention identifies one peak 124 in the histogram 122 as background pixels indicated by process block 120 in FIG. 14. In identifying this peak 124, the computer 22 examines the histogram 122 from the brightest pixels (rightmost) to the darkest pixels (leftmost) assuming that the brightest pixels are more likely to be the unattenuated background pixels. The process block 120 uses several predetermined user settings as will be described below to correctly identify the peak 124.

(Mazess, Col. 10, Lines 47-58).

In other words, the computer 22 in Mazess analyzes a histogram of 256 pixel intensity values to eliminate the pixels that are at the pixel intensity that occurs most frequently, designating them background pixels. The “frequency” in Mazess is frequency of occurrence, not a frequency of the type that would be part of a frequency spectral analysis, as that term is understood by skilled artisans and used in the present application. Therefore, Applicants submit that Mazess fails to teach or suggest the claimed frequency spectral analysis. Accordingly, reconsideration and withdrawal of the rejection of claim 109 under 35 U.S.C. §102(e) is

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respectfully requested.

Further, Mazess clearly does not perform a spatial frequency spectral analysis, as claimed in claim 133. Accordingly, claim 133, which depends from claim 109, is allowable under 35 U.S.C. §102(e).

Request for Allowance

It is believed that this Amendment places the application in condition for allowance, and early favorable consideration of this Amendment is earnestly solicited.

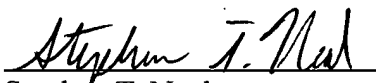
If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the telephone number listed below.

The Office is hereby authorized to charge any fees, or credit any overpayments, to Deposit Account No. **11-0600**.

Respectfully submitted,
KENYON & KENYON

Dated: October 13, 2005

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